

Serial No. 10/056,807

Dkt.: P0010412.00

Filing Date: January 25, 2002

Title: FLUID-ASSISTED ELECTROSURGICAL INSTRUMENT WITH SHAPEABLE ELECTRODE

Amendments to the Drawings

Please find enclosed a replacement sheet with added figure 12 thereon. Please use it to replace the previously submitted replacement figure 12. The figure is in red as it is added. No new matter is presented. If the Examiner accepts entry of this Figure, a formal figure will be provided.

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REMARKS

Claims 54 and 56-71 are pending. The Office Action rejected claims 54 and 56-70 under 35 USC Section 112, second paragraph. Claim 71 was allowed. The Examiner is respectfully thanked for the indication of allowable subject matter in this case.

The Office Action contains no other rejection of the claims. As a result, it is respectfully submitted that all pending claims are allowable if the 35 USC Section 112, second paragraph rejection is overcome.

Figure 12 was mentioned in the 35 USC Section 112, second paragraph rejection. Enclosed is a new replacement Figure 12. Applicants have added the language noted by the Examiner as being absent in the previously submitted Figure 12. Thus, any issue relative to Figure 12 is believed to be moot.

The rejection focuses on the language of claim 54 that recites, "a light located on the distal section and electrically coupled to the power source". It is respectfully submitted that this language is clear and that claim 54 is definite.

Some background of this language may be useful. The language of claim 54 was previously broader, reciting "a light located on the medical device and electrically coupled to the power source". However, the previous Office Action pointed to an indicator lamp on Gentelia (U.S. Pat. No. 5,599,348). Specifically, the previous Office Action noted referenced reference character 94 and column 5, line 64 -- column 6 line 11 of Gentelia. This passage states:

In order to alert the surgeon to the fact that the reset delay period is being timed out, an intermediate stage of the counter of the reset delay counter circuit 86 is used to cause an indicator light or lamp (e.g. a LED) 94 to blink during the inhibit delay period. ... When the output of switch 90 is low, meaning that control relay 88 is actuated and the electrosurgical generator is turned on, LED 94 will

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also be continuously on to provide an indication to the surgeon that the generator is on. Further ... when the generator is off but the reset delay period is being timed out, the intermediate stage of the reset delay counter 86 will provide a pulsed signal to NOR gate 96 which will cause blinking of LED 94 during this period.

In order to expedite prosecution of this case and to further distinguish the location of the lamp 94 of Gentelia from claim 54, the language of claim 54 was amended to recite the "distal section".

The current Office Action states, "Because the tip of the device is located within the body, having been placed there by insertion through a trocar, it is unclear to the examiner where the light is located or positioned to permit viewing by the surgeon." It is respectfully submitted that this paragraph seems to be trying to create an ambiguity where there is none. This statement does not support a rejection under 112, second paragraph. Among other issues with this paragraph of the Office Action, a trocar is not mentioned in claim 54. The location of the light is clear in the claim. Is the Examiner referring to the Gentelia reference?

The lamp 94 is located on the cutoff circuit of Gentelia, designated as reference character 68 (see Figure 1). See column 4, lines 57-60 of Gentelia which state, "As indicated in FIG. 1, the cutoff circuit, which is generally denoted 68, can be a separate package or unit connected into the cable or in another connection between the electrosurgical generator (not shown) and the trocar assembly 10." This passage makes it clear that the closest the cutoff circuit 68 (and lamp) of Gentelia is to the trocar is the proximal end portion of the trocar." It is definitely not on the distal section of the trocar.

The language of claim 54 is clear. The 35 U.S.C. Section 112, second paragraph is unsupported and should be withdrawn.

RESPONSE

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It is respectfully submitted that the pending claims are in condition for allowance.

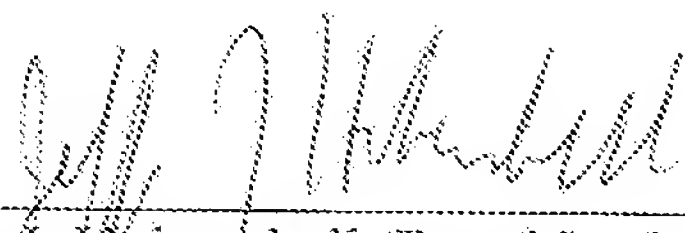
If the Examiner comes to believe that a telephone conversation may be useful in addressing any remaining open issues in this case, the Examiner is invited to contact the undersigned at 763-505-8426.

No fee is believed due for the submission of this amendment. Please charge any additional fees or credit any overpayment to Deposit Account No. 01-2525.

If the Examiner comes to believe that a telephone conversation may be useful in addressing any remaining open issues in this case, the Examiner is invited to contact the undersigned agent at 763-505-8426.

Respectfully submitted,

Date: December 10, 2010

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